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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,286	02/23/2004	Andrew G. Phillip	129719	2285

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EXAMINER
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NGUYEN, NINH H

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/708,286

Applicant(s)

PHILLIP ET AL.

Examiner

Ninh H. Nguyen

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-11, 13, 14 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 12 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/23/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7-9, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Garner (4,648,007).

Garner discloses a device for controlling a fluid flow (Figs. 1-5), the device comprising at least two fluid flow drivers 28-30; a plenum 12 disposed to receive a fluid flow from the at least two drivers, the plenum having a first cross-sectional area proximate the at least two drivers and a second cross-section area at a distance from the at least two drivers, the second cross-sectional area being an exit for the fluid flow; a baffle 35 disposed within the plenum and having a first edge restrained proximate the first cross-sectional area and a second opposing edge freely disposed proximate the second cross-sectional area; wherein the baffle has a surface area responsive to the fluid flow within the plenum to reduce a backflow if one of the at least two drives is operational and another is non-operational (Figs. 3-5);

wherein the baffle further comprises unrestrained side edges disposed between the first and second edges (Fig. 2);

wherein the first edge of the baffle is affixed proximate a line between two of the at least two drivers and the second opposing edge is freely disposed proximate the center of the second cross-sectional area (Fig. 2);

Art Unit: 3745

wherein in response to one of the at least two drivers being operational and another being non-operational, the baffle moves to close off a part of the plenum corresponding to the non-operational driver (Figs. 3-5);

wherein the at least two drivers comprises two fans, and the fluid flow comprises air; and wherein the two fans are disposed in a substantially parallel fluid flow arrangement (Figs. 3-5).

3. Claims 1, 2, 5, 8-10, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Baddour et al. (6,031,717).

Baddour discloses a device for controlling a fluid flow (Figs. 1-11), the device comprising at least two fluid flow drivers 20 (Fig. 9); a plenum (defined by the recessed area of Fig. 9) disposed to receive a fluid flow from the at least two drivers, the plenum having a first cross-sectional area proximate the at least two drivers and a second cross-section area at a distance from the at least two drivers, the second cross-sectional area being an exit for the fluid flow; a flexible baffle 12 (Figs. 2, 9) disposed within the plenum and having a first edge restrained proximate the first cross-sectional area and a second opposing edge freely disposed proximate the second cross-sectional area; wherein the baffle has a surface area responsive to the fluid flow within the plenum to reduce a backflow if one of the at least two drives is operational and another is non-operational (Fig. 11);

wherein the baffle further comprises unrestrained side edges disposed between the first and second edges (Fig. 2);

wherein the at least two drivers comprises two fans, and the fluid flow comprises air;

Art Unit: 3745

wherein the two fans are disposed in a parallel fluid flow arrangement (Fig. 9); and

wherein the two fans are disposed in a same plane (Fig. 9).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Garner in view of French (6,135,875).

Garner discloses all the limitations except there is not a tachometer for and in signal communication with each of the at least two drivers wherein if one of the at least two drivers is operational and another is non-operational the baffle substantially reduces the backflow toward the non-operational driver such that the associated tachometer registers a non-operational driver as claimed.

French teaches an electrical cabinet usually comprises plurality of fans and associated tachometers to monitor the speed of the fans, and in prior art, when a one of the fan fails, recirculating of the air causes the failed fan to spin backward, and in some instances, at a speed greater than a tachometer alarm output speed causing a faulty normal fan signal (col. 1, lines 7-19).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to make the device of Garner with each fan having an associated tachometer

Art Unit: 3745

to monitor the speed of the fan as commonly done in the art such that when a fan fails, the baffle reduces the back flow of the air therethrough such that the associated tachometer registers a non-operational fan.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baddour et al. in view of French.

Baddour discloses all the limitations except there is not a tachometer for and in signal communication with each of the at least two drivers wherein if one of the at least two drivers is operational and another is non-operational the baffle substantially reduces the backflow toward the non-operational driver such that the associated tachometer registers a non-operational driver as claimed.

French teaches an electrical cabinet usually comprises plurality of fans and associated tachometers to monitor the speed of the fans, and in prior art, when a one of the fan fails, recirculating of the air causes the failed fan to spin backward, and in some instances, at a speed greater than a tachometer alarm output speed causing a faulty normal fan signal (col. 1, lines 7-19).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to make the device of Garner with each fan having an associated tachometer to monitor the speed of the fan as commonly done in the art such that when a fan fails, the baffle reduces the back flow of the air therethrough such that the associated tachometer registers a non-operational fan.

***Allowable Subject Matter***

7. Claims 4 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 6 and 15, due to the limitation of the baffle flexes in response to a pressure differential across the baffle such that the plenum shape is optimized regardless of whether on of the at least two drivers is non-operational, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

Blatti et al. (6,000,623) is cited to show a fan having baffles and means for detecting fan speed.

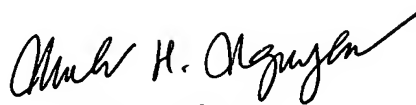
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (571) 272-4823. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

Art Unit: 3745

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (571) 272-4820. The fax number for this group is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, please go to <http://pair-direct.uspto.gov> or contact the Electronic Business center (EBC) at 866-217-9197 (toll-free).

  
NINH H. NGUYEN  
PRIMARY EXAMINER

Nhn  
July 8, 2005